

**UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES**

The Secretary, United States
Department of Housing and Urban
Development, on behalf of

████████████████████

Charging Party,

v.

Geneva Terrace, Inc.,
Nicolai Quinn, and
Victoria Gerrard,

Respondents.

HUDALJ No.:
FHEO Nos.: 05-11-0200-8

CHARGE OF DISCRIMINATION

I. JURISDICTION

On or about November 12, 2010, Complainant ██████████ and Complainant ██████████ filed complaints with the United States Department of Housing and Urban Development (the "HUD Complaints"), alleging that Respondent Nicolai Quinn ("Respondent Quinn") working on behalf of Respondent Geneva Terrace, Inc. ("Respondent Geneva Terrace") violated the Fair Housing Act as amended in 1988, 42 U.S.C. § 3601 *et seq.* (the "Act"), by discriminating against them based on their race, in violation of 42 U.S.C. § 3604(a) and (d). On or about February 9, 2011, the HUD Complaints were amended to correct the name of Respondent Quinn, whose last name was unknown to Complainants at the time of their initial complaints, and to add Victoria Gerrard ("Respondent Gerrard"), 100% owner of Respondent Geneva Terrace, as a respondent. The HUD Complaints were amended again on or about September 1, 2011 to add an allegation that Respondent also violated 42 U.S.C. § 3604(b) on the basis of race, to name the minor child of Complainants as an aggrieved party, and to clarify the identities of Respondents.

The Act authorizes the issuance of a charge of discrimination on behalf of an aggrieved person following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. § 3610(g)(1) and (2). The Secretary has delegated to the General Counsel (54 Fed.Reg. 13121), who has retained and re-delegated to the Regional Counsel (76 Fed.Reg. 42465) the authority to issue such a charge, following a

determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee.

The Office of Fair Housing and Equal Opportunity Region V Director, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that discriminatory housing practices have occurred in this case based on race, and has authorized and directed the issuance of this Charge of Discrimination ("Charge").

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned HUD Complaint and Determination of Reasonable Cause, Respondent Geneva Terrace, Respondent Quinn and Respondent Gerrard are charged with discriminating against Complainants [REDACTED] and their minor child, who are aggrieved persons, as defined by 42 U.S.C. §3602(i), based on race, in violation of 42 U.S.C. §3604(a), (b) and (d) as follows:

1. An "aggrieved person" includes any person who claims to have been injured by a discriminatory housing practice. 42 U.S.C. § 3602(i).
2. It is unlawful to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race. 42 U.S.C. § 3604(a).
3. It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling because of race. 42 U.S.C. § 3604(b).
4. It is unlawful to misrepresent to any person based on race that any dwelling is not available for inspection, sale, or rental, when such dwelling is, in fact, so available. 42 U.S.C. § 3604(d).
5. At all times relevant to this Charge, Respondent Geneva Terrace owned a 100% interest in a multifamily rental complex consisting of four buildings located at or around [REDACTED], La Crosse, Wisconsin. The complex is referred to as Geneva Terrace Apartments ("Subject Property").
6. At all times relevant to this Charge, each building at the Subject Property contained ten two-bedroom units and fourteen one-bedroom units.
7. At all times relevant to this Charge, Respondent Victoria Gerrard owned a 100% interest in Respondent Geneva Terrace.
8. From 2007 until January of 2011, Respondent Geneva Terrace was a delinquent corporation and did not enjoy good corporate standing under Wisconsin law.

9. Respondent Quinn is Respondent Victoria Gerrard's son. Ever since the construction of the Subject Property, Respondent Quinn has worked for Respondent Geneva Terrace as the property manager of the Subject Property. At all times relevant to this Charge, Respondent Quinn's job duties included handling day-to-day operations of the Subject Property, responding to rental inquiries, handling rental applications, showing available units to prospective applicants, and providing minor maintenance work. On information and belief, Respondent Quinn is a licensed real estate agent, who has had fair housing training as a condition of maintaining his license.
10. At all times relevant to this Charge, Respondent Quinn alternatively used "Nicolai" and "Nick" as his name when introducing himself to prospective applicants.
11. At all times relevant to this Charge, the telephone number for the rental office of the Subject Property, staffed by Respondent Quinn, was 608-787-6303.
12. At all times relevant to this Charge, the rental office of the Subject Property was located approximately three miles away from the Subject Property.
13. Complainants [REDACTED] are a married African American couple with a minor child.
14. In or around September of 2009, Complainants [REDACTED] became interested in renting from the Subject Property after it was recommended to them by Complainant [REDACTED]'s white friend and colleague, who once lived at the subject property. In late September or early October of 2009, Complainant [REDACTED] telephoned 608-787-6303 and spoke with a man who identified himself as "Nick," on information and belief, Respondent Quinn. Complainant [REDACTED] asked if there was any two or three bedroom apartment available at the Subject Property. Respondent Quinn responded that there was no two-bedroom apartment available at the time. There are no three-bedroom apartments at the Subject Property.
15. On information and belief, at the time of Complainant [REDACTED]'s inquiry, there was a two-bedroom apartment available, or Respondent Quinn knew or should have known that a two-bedroom apartment was going to be available shortly.
16. On information and belief, Respondent Quinn became aware that Complainant [REDACTED] is an African American because the characteristics of Complainant [REDACTED]'s voice make it racially identifiable as African American.

17. In or around late October or early November of 2009, Complainants visited the rental office of the Subject Property. Walking in, they noticed a large sign that read, "Now Renting." They talked with a man in the rental office, on information and belief, Respondent Quinn, who told them that there were no available two-bedroom apartments.
18. On information and belief, at the time of Complainants' inquiry in late October or early November 2009, there was a two-bedroom apartment available, or Respondent Quinn knew or should have known that a two-bedroom apartment was going to be available by late November or early December 2009.
19. Respondent Quinn was aware that Complainants were African Americans at the time of their inquiry in late October or early November 2009 because he met them in person.
20. In late January of 2010, Complainant [REDACTED] noticed a published advertisement for available units at the Subject Property and telephoned Respondents' rental office at 608-787-6303. She spoke with a man, on information and belief, Respondent Quinn, who told her that there were no available two-bedroom units and that none would be available until March of 2010.
21. On information and belief, there was a two-bedroom apartment available at the Subject Property at the time of Complainant [REDACTED]'s January 2010 inquiry, or Respondent Quinn knew or should have known that a two-bedroom apartment was going to be available before March of 2010.
22. On information and belief, Respondent Quinn became aware that Complainant [REDACTED] is an African American because the characteristics of Complainant [REDACTED]'s voice make it racially identifiable as African American. Alternately, on information and belief, Respondent Quinn became aware that Complainant [REDACTED] is an African American during this telephone inquiry because he remembered her from a previous interaction.
23. On or about March 8, 2010, Complainant [REDACTED] again telephoned the rental office of the Subject Property and spoke with "Nick," Respondent Quinn, who again informed her that there were no available two-bedroom units for May 2010 occupancy. Respondent Quinn told Complainant [REDACTED] that nothing would be available until July or August 2010.

24. On information and belief, at the time of Complainant [REDACTED]'s March 8, 2010 inquiry, there was a two-bedroom apartment available at the Subject Property, or Respondent Quinn knew or should have known that a two-bedroom apartment was going to be available in May of 2010.
25. On information and belief, Respondent Quinn was aware that Complainant [REDACTED] is an African American during her March 2010 telephone inquiry by the characteristics of her voice, which are identifiably African American, or because he remembered her from a previous interaction.
26. At the time of Complainant [REDACTED]'s March 2010 call to Respondents, a white friend, named [REDACTED], was visiting Complainants in their home. [REDACTED] [Friend] offered to call the Subject Property to inquire about available rentals to see what response she would receive.
27. After waiting approximately ten to fifteen minutes after Complainant [REDACTED]'s March 8, 2010 telephone call, [REDACTED] [Friend] called the Subject Property by dialing 608-787-6303. [REDACTED] [Friend] spoke with a man who introduced himself as "Nick," Respondent Quinn. When Bennett asked Respondent Quinn if there were any two-bedroom units available at the Subject Property for May 2010 occupancy, Respondent Quinn replied affirmatively, stating that a two-bedroom unit was then currently available. Respondent Quinn described the features of the available two-bedroom unit and invited [REDACTED] [Friend] to come and see the unit.
28. Complainant [REDACTED] [REDACTED] was present during [the Friend's] [REDACTED] March 8, 2010 telephone call to the Subject Property. She was shocked and dismayed that [REDACTED] [the Friend] was told of a vacancy so soon after she was told there would be no vacancies until August 2010. Complainant [REDACTED] was also shocked that her white friend received a positive response to her first inquiry, when Complainants had been attempting for months, without success, to see an available unit at the Subject Property.
29. After the March 8, 2010 telephone calls with Respondent Quinn, Complainants contacted the Metropolitan Milwaukee Fair Housing Council ("Metro Milwaukee"), a private nonprofit fair housing organization. Based on information provided by Complainants, Metro Milwaukee decided to test the rental practices of the Subject Property, specifically with regard to race.
30. Metro Milwaukee conducted both telephone and site visit tests. The majority of those tests were audio recorded.

31. On or about April 21, 2010, a white female tester called the rental office of the Subject Property and spoke with "Nick," Respondent Quinn. She asked if any two-bedroom apartments were available for June 1 2010 rental. Respondent Quinn told her that two-bedroom units rented for \$675; two-bedroom single family houses rented for \$1,000 per month; and that he had available two-bedrooms for rent "right now." He told her that he could show them "any time," but that it was good to call first.
32. On or about April 22, 2010, at around 10:11 a.m., an African American male tester ("Black Male Tester") called the subject property. The phone was answered by a male, believed to be Respondent Quinn. The Black Male Tester greeted Respondent Quinn by saying, "Hello, how are you today?" Respondent Quinn responded, "I'm busy. You'll have to call me back" and abruptly hung up, even as the Black Male Tester was saying, "Wait, wait, hello, hello, I'm calling about a two bed" Approximately 4 minutes later, at 10:15 a.m., the Black Male Tester called the Subject Property again. His call was answered by a voice mail message. He did not leave a message.
33. On or about April 22, 2010 at around 10:20 a.m. the Black Male Tester called the Subject Property again. This time, when the Black Male Tester called the subject property, he dialed *67 to block the recipient's caller identification device from identifying his telephone number. The telephone was answered by a male, who later identified himself as "Nick," Respondent Quinn. The Black Male Tester told Respondent Quinn that he was looking for a two-bedroom apartment for May 15, 2010 rental. Respondent Quinn responded, "we're not gonna have anything available that soon." He added that there would not be an available unit, "probably 'till around July or August." Respondent Quinn told the Black Male Tester that the Subject Property was "all filled up now until then."
34. On or about April 22, 2010, at 11:11 a.m., a white male tester ("White Male Tester") called the rental office and spoke to a man who later identified himself as "Nick," Respondent Quinn. When asked if there was a two bedroom unit available for May 15, 2010 rental, Respondent Quinn responded, "Yeah, I've got something I can show you" and added that the caller could come to the Subject Property that day if he was interested in seeing a unit. Respondent Quinn told the White Male Tester that he could usually show him a unit "any time," but to call first. He also quoted a rental rate of \$675 for a two-bedroom unit.
35. On or about May 24, 2010, at 2:15 p.m., a white female tester ("White Female Tester") called the Subject Property and left a voicemail inquiring about the

availability of a two-bedroom apartment for July 1 rental. She received a return call on the same day at about 4:40 p.m. from a man who stated that there was one two-bedroom unit available "right now" and that one additional two-bedroom unit would be available beginning June 1, 2010. He told her the rental rate was \$675.

36. On or about May 25, 2010, at 9:05 a.m., an African American female tester ("Black Female Tester") called the rental office and spoke to a man who later identified himself as "Nicolai," Respondent Quinn. The Black Female Tester told Respondent Quinn that she was looking for a two-bedroom unit for rental beginning July 1, 2010, but added that she could move earlier, if necessary. Respondent Quinn stated that the subject property "should have" a couple of two-bedrooms available in July but that they were "all full" at that moment. When she asked if she could see one of the units that would become available in July, he again repeated that they were "all full." When the Black Female Tester asked Respondent Quinn when he would start showing the available units, he said after June 1, 2010. She asked if she should call back after June 1, and he said, "Yes."
37. On or about May 25, 2010, at 1:10 p.m., another white female tester ("White Female Tester") called the subject property and left a voice mail inquiring about a two-bedroom unit for rental beginning on July 1, 2010. Ten minutes later, she received a return call from "Nick from Geneva Terrace," Respondent Quinn. He told her that one or two units would become available as early as June 1. He added that she could come see the unit as early as the next day and that she should call him in the morning if she were interested in doing so.
38. On or about May 26, 2010, at 9:35 a.m., the White Female Tester called the subject property again and reminded Respondent Quinn that she had called the previous day. He said that he remembered her and they scheduled a showing at the Subject Property for noon that day.
39. On or about May 26, 2010, at noon, an African American female tester ("Black Female Tester") appeared in place of the White Female Tester who made the appointment for the showing of the Subject Property that day. She was greeted by a man, later identified as Respondent Quinn. The Black Female Tester introduced herself as the woman who called earlier to schedule the appointment. Respondent Quinn showed the tester a two-bedroom apartment. Respondent Quinn told the Black Female Tester that Respondents had a unit available for June 1 and, when asked, July 1. When prompted, Respondent Quinn stated that the unit rented for \$675. When the tester asked Respondent Quinn for an application, Respondent Quinn responded that he did not have one with him and that they would have to drive back to the rental

office—three miles away—to get a copy. They drove back to the rental office, and after he handed her an application, Respondent Quinn informed the tester that the sooner she returned the application, the better, because the Subject Property was usually “100% full.”

40. On or about May 26, at 10:45 a.m., a white male tester (“White Male Tester”) called the rental office and spoke to a man who identified himself as “Nick,” Respondent Quinn. The tester asked about the availability of a two-bedroom unit and Respondent Quinn stated that a two-bedroom apartment was available “after July 1.” The White Male Tester made an appointment to see a two bedroom unit at 2:00 p.m. that same day.
41. On or about May 26, 2010, at 2:00 p.m., a white female tester (“White Female Tester”) appeared in place of the White Male Tester who made the appointment for the showing of the Subject Property that day; she posed as the wife of the White Male Tester who made the appointment. The White Female Tester, along with a white couple with a child, met with a man later identified as Respondent Quinn. The White Female Tester was shown a two bedroom apartment, together with the white family. On the way out of the rental office, Respondent Quinn took rental applications to bring along with him to the showing. After the showing, Respondent Quinn handed the White Female Tester an application, without being asked. After the other family left, Respondent Quinn commented that the tester had a “nice car” and told her he could hold the unit for her. Respondent Quinn explained that, in addition to a two bedroom unit that would be available on June 1, 2010, another unit would become available at the end of June. Respondent Quinn also added that the subject property was “quiet” because “We don’t have kids here.” Respondent Quinn informed the tester that, in addition to mailing in the application, she could simply drop it off at the rental office.
42. On or about May 27, 2010, at around 3:25 p.m., the Black Female Tester who toured the Subject Property on May 26, 2010, called the Subject Property and spoke to Respondent Quinn. She reminded him that he had shown her a unit the previous day and stated she and her husband had decided to take the two bedroom unit that he had told her was available for July 1. When she asked him if the July 1, 2010 apartment was still available, Respondent Quinn replied, “no, no” and said that he did not know when the “other apartment” would be available. The Black Female Tester persisted and asked if she could mail in the rental application before July 1 and he gave her mailing instructions.

43. On or about June 1, 2010, at around 2:27 p.m., the White Female Tester who toured the Subject Property on May 26, 2010 called the rental office and spoke to Respondent Quinn. She reminded him that he had shown her a two-bedroom unit on May 26 and asked if a two bedroom unit was still available at the end of June. Respondent Quinn responded, "it is." When the tester asked how to submit her application, Respondent Quinn stated that she could mail it or drop it off at the rental office and added that she should be sure to include her telephone number because he was going to call her back. Respondent Quinn also added that he would get the tester and her husband approved, and that he would then show them the actual unit and sign the lease.
44. On or about June 1, 2010, at around 4:41 p.m. the Black Female Tester who toured the Subject Property on May 26, 2010 again called the rental office of the Subject Property. The call was not answered and she left a voicemail for Respondent Quinn, reminding him that they had met the previous Wednesday and asking for a return phone call. Receiving no return call, the Black Female Tester called the Subject Property again the next day, on or about June 2, 2010, at 4:21 p.m. Again, the call was not answered and she left a voicemail for Respondent Quinn, requesting a return phone call.
45. On or about June 3, 2010 at 9:24 a.m., Respondent Quinn returned the call of the Black Female Tester, who toured the Subject Property on May 26, 2010. The Black Female Tester asked Respondent Quinn if the unit she viewed was rented; he replied that "all" the units were rented. She asked if any other units would become available by July 1, 2010, to which he responded, "No, we have nothing." She asked that he keep her and her husband in mind if any two-bedroom unit became available, reminding him that he had her number. The Black Female Tester never received another call from Respondent Quinn.

II. CONCLUSIONS

46. By falsely representing to Complainants, who are African-American *bona fide* prospective tenants, that there were no two-bedroom units for rent at the Subject Property, while representing to white prospective renters and white testers that there were available two-bedroom units for rent at the Subject Property, Respondents refused to negotiate for the rental of, and/or otherwise made unavailable or denied, a dwelling to Complainants on the basis of race in violation of 42 U.S.C. § 3604(a).
47. By volunteering information about, and offering to show, available rental units to white testers, white prospective tenants, and [REDACTED] Friend, who is white, while representing to Complainants, who are African Americans, and African

American testers that there were no available rental units to show them, Respondents treated white prospective tenants more favorably than Complainants and other prospective African American tenants on the basis of race in the terms, conditions or privileges of sale or rental of a dwelling in violation of 42 U.S.C. § 3604(b).

48. By representing to Complainants and African American testers that no units were available for inspection or rental when a unit or units were, in fact, so available, Respondents misrepresented the availability of the Subject Property based on race, in violation of 42 U.S.C. § 3604(d).
49. Complainants and Complainants' minor child are aggrieved persons within the meaning of 42 U.S.C. § 3602(i). As a result of Respondents' discriminatory conduct, Complainants and their minor child suffered damages, including emotional distress, inconvenience, and loss of a housing opportunity.
50. Specifically, as a result of Respondents' racially discriminatory conduct, Complainants suffered emotional distress, including shock, dismay, loss of sleep and depression. In order to address their emotional distress, Complainants saw physicians, incurring medical expenses. Additionally, they were unable to find permanent housing over several months, which was stressful and frustrating, and eventually had to move to inferior housing located in a less desirable, and less safe, environment.
51. Specifically, as a result of Respondent's racially discriminatory conduct, Complainants' minor child, who was twelve years old at the time, also suffered emotional distress. She was confused and upset about the incident. Because Complainants could not move to Geneva Terrace, Complainant's minor child had to change her school, which was stressful and difficult. Because her new neighborhood were less safe, she had trouble socializing and making friends.

III. CONCLUSION

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to Section 3610(g)(2)(A) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(a), (b) and (d) of the Act, and prays that an order be issued that:

1. Declares that the discriminatory housing practices of Respondents as set forth above violates the Fair Housing Act, as amended, 42 U.S.C. §§ 3601 *et seq.*;

2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them in the rental of housing from discriminating because of race or familial status against any person in any aspect of the purchase or rental of a dwelling;
3. Awards such monetary damages as will fully compensate Complainants and their child, aggrieved persons, for any and all damages caused by Respondents' discriminatory conduct; and
4. Awards a \$16,000 civil penalty against each of Respondents for violating the Act, pursuant to 42 U.S.C. § 3612(g)(3).

The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

/S/

COURTNEY MINOR
Regional Counsel
Region V

/S/

LISA M. DANNA-BRENNAN
Supervisory Attorney-Advisor
for Fair Housing

/S/

SOL TERENCE KIM
Trial Attorney
U.S. Department of Housing and
Urban Development
Office of Regional Counsel-Region V
77 West Jackson Boulevard, Room 2633
Chicago, Illinois 60604-3507
Tel: (312) 913-8019
Fax: (312) 886-4944

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